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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

U.S. Tm. App. No. 75/790,878
Filing date: September 2, 1999



09-17-2001

U.S. Patent & TMO/TM Mail Rpt Dt #51

Dressler Foods, Inc.,

Opposer,

v.

Nutrition for Life International. Inc.

Applicant.

Opposition No. _____

NOTICE OF OPPOSITION

To: Box TTAB Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

This Notice of Opposition concerns an application for registration on the Principal Register, Serial No. 75/790,878 filed September 2, 1999 of IT'S SOY GOOD in International Class 5 for "dietary supplements" and International Class 30 for "food products". The application was apparently later amended to cover goods International Class 5 for "dietary supplements" and International Class 30 for "soy-based snack foods and packaged meals consisting primarily of soy, but specifically excluding non-dairy and soy-based frozen desserts and ice cream".

09/21/2001 TSMITH
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The named applicant is Nutrition for Life International, Inc., a Texas corporation, Houston, Texas (hereinafter "Applicant"). The mark was published in the Official Gazette of July 17, 2001. Opposer timely filed a First Request for Extension of Time in which to oppose on August 15, 2001.

1 Dressler Foods, Inc., a corporation organized and existing under the laws of
2 the State of Washington, located and doing business at Route 1, Box 286-C, Walla
3 Walla, Washington 99362 (hereinafter Opposer) believes that it will be damaged by
4 registration of the mark shown in the above-identified application, and hereby
5 opposes same.

6 The grounds of opposition are as follows:

7 (1) Opposer is, and has been for many years, through itself and a
8 predecessor in interest, the user of the trademark SOYGOOD. The mark
9 SOYGOOD is the subject of U.S. Trademark Application Serial No. 75/815,354
10 filed on October 26, 1999 for "soy-based liquid beverage or powdered beverage base
11 used as a milk substitute".

12 (5) The SOYGOOD trademark has been in continuous and extensive use
13 since at least as early as before applicant's intent to use trademark application
14 which is the subject of this opposition.

15 (6) Opposer has used the SOYGOOD mark, without limitation, on soy based
16 milk substitute products, and in other ways.

17 (7) Applicant seeks to register IT'S SOY GOOD as recited above.

18 (8) Opposer's usage of SOYGOOD predates Applicant's intent to use
19 trademark application, and upon information and believe, Applicant's usage.

20 (9) Opposer has extensively sold its goods under the SOY GOOD mark,
21 and has created widespread goodwill throughout the United States, including over
22 the internet. By reason of such wide advertising and wide distribution of Opposer's
23 goods, the trade and the purchasing public have come to recognize Opposer's

1 SOYGOOD mark as signifying the Opposer and as identifying Opposer as the
2 source of goods bearing the SOYGOOD mark.

3 (10) Applicant's use and registration of its IT'S SOY GOOD mark will
4 result in a presumption in the retail purchasing public's mind that there is a
5 connection with Opposer and its mark. Because of the similarities in appearance,
6 phonetics and connotation between Opposer's marks and Applicant's mark, and
7 because of the related nature of the goods provided by Opposer under its marks
8 relative to the goods recited by Applicant, the trade and purchasing public likely will
9 be confused, mistaken and/or deceived and will believe that applicant's goods
10 emanate from or are in some way are associated or connected with, or sponsored,
11 authorized or warranted by Opposer, to Opposer's detriment. Opposer will be
12 damaged if Applicant is granted its registration as requested.

13 WHEREFORE, Opposer requests that this opposition be sustained, and that
14 the requested registration of Applicant's mark in Applicant's Serial No. 75/790,878
15 be denied.

16 A check for the \$600.00 filing fee (for opposing the subject application in
17 Classes 5 and 30) is enclosed herewith, along with two copies of this Notice of
18 Opposition. No. 23-0925.

1
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3 Date: 9/17/01

By: Mark W. Hendricksen
Mark W. Hendricksen
Reg. No. 32,356
Attorney for Opposer
WELLS, ST. JOHN, ROBERTS,
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9 Enclosures: *Check for \$600.00*
10 *Two copies of Notice of Opposition*
11 *Return Postcard Receipt*
12 *Transmittal Letter*
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CERTIFICATE OF EXPRESS MAILING

I hereby certify that the original and two copies of papers listed and marked above are being deposited with the U.S. Postal Service as Express Mail on the below-indicated date, addressed to:

Box TTAB Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

Express Mail No. **EL844048825**

and

Rakesh M. Amin
Weaver & Amin
150 North Wacker Drive, Suite 2020
Chicago, IL 60606

EL844048817
Express Mail No. _____

Date: 9/17/01

By: Jane E. Boone
Jane E. Boone

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of U.S. Tm. App. No. 75/790,878
Filing date: September 2, 1999
Attorney Docket No. BE58-502



09-17-2001

U.S. Patent & TMOfr/TM Mail Rcpt Dt #9f

To: Box TTAB Fee
Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

From: Wells, St. John, Roberts, Gregory & Matkin, P.S.
601 West First Avenue, Suite 1300
Spokane, WA 99201-3828
Phone 509/624-4276
Fax 509/838-3424

Enclosed are:

1. PTO Return Postcard Receipt
2. Transmittal Letter
3. Check No. 132275 for \$600.00
4. Original plus two copies of Notice of Opposition

Deposit Account Authorization: The Commissioner is hereby authorized to charge payment of any applicable fees to Deposit Account No. 23-0925.

Date: 09/17/01

By: Mark W. Hendricksen
Mark W. Hendricksen
Reg. No. 32,356
Attorney for Opposer